

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

SCOTT D. DALESANDRO and DIANE
NOONAN, on behalf of themselves and
others,

Plaintiffs,

vs.

INTERNATIONAL PAPER COMPANY,

Defendant.

:
:
:
:
:
:
:
:
:
:
:
:
:

Case No. C-1-01 109

Judge Sandra S. Beckwith

**DEFENDANTS' MOTION FOR RECONSIDERATION OF
RECUSAL ORDER AND SUBSTITUTION OF COUNSEL**

Defendant International Paper hereby moves the court to reconsider its Order of October 20, 2004 in which Chief Judge Beckwith recused herself in this action. Defendants infer from a pattern of recusals in other cases that the Recusal Order is based on the fact that the firm of Graydon Head & Ritchey LLP serves as local counsel for Defendant in this action. On the unique facts of this case, Defendant submits that the Court should allow Defendant to substitute new local counsel for the Graydon Head & Ritchey firm and reconsider the Recusal Order. The motion should be granted for the following reasons:

1. First, this is a complex ERISA class action that was filed three years ago. The Court has devoted considerable time and effort to learning the background law and facts of the case. In order to decide the pending motions a new judge would have to spend a great deal of time reviewing the docket and familiarizing himself or herself with the governing law and this Court's prior decisions. Substitution of counsel and reconsideration of the Recusal Order

would better serve the interests of justice than the delays and the loss of judicial economy that may occur if the case is reassigned.

2. Second, substitution of another firm as local counsel in this action will impose no hardship on the Court, the parties, or the Graydon Head & Ritchey firm because the principal legal work for Defendant in this case has been done by the firm of McGuire Woods.

3. Third, Defendant has identified substitute local counsel for this action. Defendants hereby seek leave to substitute Grant S. Cowan of Frost Brown Todd LLC for Michael Roberts of Graydon, Head & Ritchey as local counsel from this point forward.

4. Were it not for the facts that (i) this case has been pending for three years, and (ii) this Court has invested a substantial amount of time and accumulated a substantial amount of expertise in the action, Defendant would not seek reconsideration of the Recusal Order. Under the current circumstances, however, Defendant submit that reconsideration is warranted.

Respectfully submitted,

/s Michael A. Roberts
Michael A. Roberts (0047129)
Graydon Head & Ritchey LLP
1900 Fifth Third Center
P.O. Box 6464
Cincinnati, OH 45201-6464
(513) 621-6464
(513) 651-3836 (fax)
mroberts@graydon.com
Trial Attorney for Defendant

/s Grant S. Cowan
Grant S. Cowan
Frost Brown Todd LLC
2200 PNC Center
201 East Fifth Street
Cincinnati, Ohio 45202-4182
(513) 651-6745
(513) 651-6981 (fax)
gcowan@fbtlaw.com
Proposed Substitute Trial Attorney for Defendant

W. Carter Younger (VSB 01147)
James P. McElligott, Jr. (VSB 014109)
(Admitted Pro Hac Vice)
McGuireWoods LLP
One James Center

Richmond, VA 23219
(804) 775-4363

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of November 2004, a true and complete copy of this document was delivered via electronic filing to Counsel for Plaintiff, Theresa L. Groh, Esq., and John C. Murdock at Murdock, Goldenberg, Schneider & Groh, L.P.A., 700 Walnut Street, Suite 400, Cincinnati, Ohio, 45202.

s/ Michael A. Roberts

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

SCOTT D. DALESANDRO and DIANE NOONAN, on behalf of themselves and others,

Plaintiffs,

VS.

INTERNATIONAL PAPER COMPANY,

Defendant.

[illegible]

Case No. C-1-01 109

Judge Sandra S. Beckwith

[PROPOSED] ORDER

This matter is before the Court on Defendants' Motion for Reconsideration of Recusal Order and Substitution of Counsel. It is hereby **ORDERED** that the Motion is **GRANTED**. The Clerk is directed not to proceed with the reassignment of this case.

Date:_____

Chief Judge, United States District Court